IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 11985 of 2005

Between:

1 Agha Syed Hasan, S/o. Aga Syed Hashim,
R/o.H.No. 22-8-389, Purani Haveli, Hyderabad.
2 Farheen Zainab, w/o. Aga Syed Hasan,
R/o.H.No. 22-8-389, Purani Haveli, Hyderabad.

..... PETITIONERS

AND

1 The District Registrar,

Co-operatives, Hyderabad.
2 Charmiar Co-operative Urban Bank Ltd.

Rep., by its Special officer cum Managing Director,
Saifabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ order or direction declaring the action of the respondent no. 2 in not returning the property documents i.e. the sale deed and will deed belongs to the property of the petitioner which were kept as collateral security at the time of taking the loan amount, even though the entire loan amount to the account

No. H-83 is paid by the petitioners and even though the petitioners made a representation to the respondents no. 2 on 14-5-2005 as arbitrary, illegal, null and void, consequently direct the respondent no. 2 to return the documents i.e. the sale deed and will deed belongs to the property of the petitioner which were given at the time of taking loan by petitioner No.1, in favour of the petitioners considering the representation dated 14-5-2005 immediately.

Counsel for the Petitioner: Mr. K.VENUMADHAV

Counsel for the Respondent No.1: GP FOR COOPERATION

Counsel for the Respondent No.2 : Sri Nuthi Rammohan Rao

The Court, at the stage of admission, made the following :

ORDER:

The petitioners are aggrieved by the action of the 2nd respondent, allegedly in not returning the property documents, i.e., the sale deed and will deed pertaining to the petitioners' property which were kept as collateral security at the time they obtained a loan from the 2nd respondent. The 1st petitioner was employed in the 2nd respondent-bank and during the course of such employment he obtained a loan from the said bank. The entire amount has been repaid even before the stipulated period of instalments, is the claim. Thereafter, the petitioners submitted a representation for return of the property documents, which they deposited as collateral security for the loan. No action is taken by the 2nd respondent on the said representation. This is the grievance that has led the petitioners to this Court.

2. The 2nd respondent is neither urged nor established to be the State or an instrumentality of the State. The singular fact that a Government Servant is appointed to administer the 2nd respondent does not alter the characteristic of the 2nd respondent, a juristic personality, which is a private entity and not an instrumentality of the State. In the circumstances, no Writ would lie to direct the 2nd respondent to perform any obligations which are not part of the public law discipline.

2. The Writ Petition is without merits and is accordingly dismissed. The petitioners are at liberty to pursue their appropriate remedies before a civil Court of competent jurisdiction or to make a representation to the 1st respondent or any other authority for issuance of appropriate administrative directions.

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(GODA RAGHURAM,J)

8th June, 2005.

Note:

Issue C.C. by three days.

B/o

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To

1 The District Registrar,

Co-operatives, Hyderabad.

2 The Special officer-cum-Managing Director,
Charmiar Co-operative Urban Bank Ltd.

Saifabad, Hyderabad.

3 Two CCs to the GP for Cooperation,

High Court of A.P., Hyderabad (O.U.T.)

4 Two CD copies

5 One CC to Mr.Venumadhav.